

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF GEORGIA  
STATESBORO DIVISION

HARVIS BOLDERN, JR.,

Plaintiff,

v.

S.A.B.E.,

Defendant.

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6:15-cv-84

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**O R D E R**

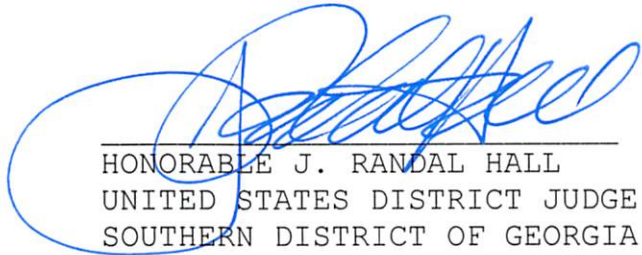
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Presently before the Court is Defendant's motion to dismiss. (Doc. 12.) In part, Defendant's motion seeks the dismissal of Plaintiff's age and race discrimination claims for failure to exhaust administrative remedies. Eleventh Circuit precedent directs district courts to resolve factual disputes regarding exhaustion of administrative remedies on a motion to dismiss. Bryant v. Rich, 530 F.3d 1368 (11th Cir. 2008). For the Court to do so, however, two conditions must be met: (1) the factual disputes must not decide the merits of Plaintiff's claim; and (2) the parties must have a sufficient opportunity to develop a record. Id. at 1376.

Defendant attached three exhibits to its motion to dismiss while Plaintiff did not attach any to his response. The Court now provides notice to Plaintiff that it will consider

Defendant's evidence supportings its argument that Plaintiff failed to exhaust administrative remedies on his race and age discrimination claims. Should he wish to do so, on or before July 24, 2016, Plaintiff shall file any additional evidence, if any, to supplement the record.

**ORDER ENTERED** at Augusta, Georgia, this 13<sup>th</sup> day of July, 2016.



HONORABLE J. RANDAL HALL  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF GEORGIA